

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1250

SPONSOR: Appropriations Committee and Senator Pruitt

SUBJECT: Employee Benefits

DATE: March 25, 2004      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McVaney</u>	<u>Coburn</u>	<u>AP</u>	<u>Fav/CS</u>
2.	_____	_____	<u>RC</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

Section 39 of chapter 2003-399, Laws of Florida, set the amount of co-payments required for the state employee prescription drug program for FY 2003-2004; this provision expires June 30, 2004. The copayments are \$10 for generic drugs; \$25 for brand name drugs; \$40 for nonpreferred brand name drugs; \$20 for generic mail order drugs; \$50 for brand name mail order drugs; and \$80 for nonpreferred brand name mail order drugs.

Section 110.1239, F.S., requires the Department of Management Services to determine the level of premiums necessary to fully fund the state group health insurance program for the next fiscal year. The law also provides legislative intent that the insurance program should be managed, administered, operated, and funded in a manner to maximize the protection of health benefits for the employees. The provisions of this section expire June 30, 2004.

This bill provides an exemption from the regulation of multiple employer welfare arrangements for the State Health Insurance program administered by the Department of Management Services.

This bill also provides an exception to the preexisting condition limitations in the State Health Insurance program for certain state court system employees, state attorney office employees and public defender employees.

The bill provides the maximum amount of annual and sick leave that may be transferred into the state attorney offices and public defender offices by employees moving from county government to state employment as a result of the implementation of Revision 7 to Article 5 of the Florida Constitution.

This bill substantially amends the following sections of the Florida Statutes: s. 110.12315, 110.139, and 624.437.

## **II. Present Situation:**

Section 110.12315, F.S., creates the State Employee Prescription Drug Program. Currently, the required copayments are specified in statute as well as in the General Appropriations Act. The current schedule expires July 1, 2004.

Section 110.1239, F.S., requires the Department of Management Services to determine the premium levels necessary to fund the state employees' health insurance program. The provision setting forth the department's responsibility expires July 1, 2004.

Sections 624.436-.446, Florida Statutes, contain the provisions relating to regulation of multiple employer welfare arrangements or MEWA's. A MEWA means an employee welfare benefit plan maintained for the purpose of offering health insurance benefits to employees of two or more employers, or to their beneficiaries. Among other requirements, a MEWA must have a certificate of authority issued by the Department of Financial Services, must be operated in accordance with sound actuarial principles, must maintain appropriate loss reserves, and must maintain a fund balance equal to 10 percent of its total liabilities. Current law provides an exception to the MEWA regulatory laws for a MEWA which is fully insured by an authorized insurer or an arrangement exempt under the provisions of Employee Retirement Income Security Act.

The State Group Health Insurance Plan is an employee welfare benefit plan. With the devolution of the state university system and the permissive inclusion of certain small local governments, multiple employers are permitted to participate in the plan. Subsection 110.1228(6), F.S., exempts the state health insurance program from the MEWA regulatory statutes.

Under the provisions of s. 110.123, F.S., state employees holding permanent positions are eligible to participate in the State Group Health Insurance Plan. Enrollees may choose between two types of health insurance plans: a statewide Preferred Provider Organization (PPO) Plan or a Health Maintenance Organization (HMO) plan. HMO coverage is available only to those employees who live or work in the HMO's service area. Both plans are considered managed-care plans and have specific provider networks that enrollees are expected to use.

One difference between the benefits offered under PPO and the HMOs is the preexisting condition limitation (instances in which the employee or dependent has received medical advice or treatment within six months of the date of hire or the date insurance coverage becomes effective). The HMO contracts do not have a preexisting condition limitation. The PPO, on the other hand, does not pay benefits for preexisting conditions that would otherwise be considered a covered service until the employee has been employed by the state for 12 months or has been covered for 12 months. The limitation may be reduced to the extent an employee has "creditable coverage" – credit for previous healthcare coverage.

The Department of Management Services administers the pay and benefits of the State Personnel System, including the Career Service, the Selected Exempt Service and the Senior Management

Service. Under current law and rules, the State Personnel System does not allow employees moving from outside state government to transfer any leave when hired by a state agency.

The State Court System has the authority to set certain benefit policies, including leave transfers, for personnel employed in its pay plan. Under the provisions of the "Personnel Regulations Manual of the Florida State Courts System", as revised in September 1999, an employee may transfer up to 80 hours of annual leave and 320 of sick leave when hired by the state court system. State court system employees are permitted to accrue up to 360 hours of annual leave. Hours in excess of 360 hours on December 31 of each year are transferred to the employee's sick leave accumulation. There is no limitation on the number of sick leave hours an employee of the state court system may accumulate.

The Justice Administration Commission (JAC) has the authority to set certain benefit policies, including leave transfers, for personnel employed in its pay plan. Under the policies of the JAC, no provision exists that allows the transfer of annual leave when an employee moves from a county government to a state attorney's office or a public defender's. However, an employee may, at the discretion of the State Attorney, be permitted to transfer up to 480 hours of sick leave. An employee of the public defender's office, at the discretion of the Public Defender, may be permitted to transfer up to 480 hours of sick leave, with 80 hours transferred on the date of employment and another 80 hours transferred upon completion of each succeeding year of employment in the public defender's office.

### **III. Effect of Proposed Changes:**

Section 1 amends s. 110.12315, F.S., to delete obsolete provisions and to remove the expiration date for provisions relating to the prescription drug copayments schedules. This means the current copayment schedule will continue until modified by the Legislature.

Section 2 amends s. 110.1239, F.S., to remove the expiration date for provisions regarding the responsibility of the Department of Management Services to determine premium levels necessary to fund the state employees' health insurance program.

Section 3 amends S. 624.437(3), F.S., to exempt the State Group Health Insurance program administered by the Department of Management Services from the Multiple Employer Welfare Arrangements (MEWA) laws. This exemption will allow the program to continue to be offered to state university employees as well as state agency employees.

Section 4 provides that personnel moving from the county government to a state government position as part of the implementation of Revision 7 to Article 5 of the State Constitution, and their covered dependents, shall be deemed to have met the preexisting condition requirements under the State Group Health Insurance Program if the employee was continuously enrolled for at least 12 months in a county-sponsored group health insurance program.

Section 5 provides that personnel moving from county government to a position in the state attorney office or public defender office as part of the implementation of Revision 7 to Article 5 of the State Constitution will be permitted to transfer up to 80 hours of unused annual leave and up to 320 hours of unused sick leave.

Section 6 provides that the bill takes effect upon becoming a law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

State attorney and public defender offices will incur additional leave liability associated with the transfer of leave balances from county government to state government. The fiscal impact of this transfer is indeterminate.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.